

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES

333 W. COLFAX AVENUE, SUITE 400
DENVER, COLORADO 80204

AUG 7 1986

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|---------------------------------|---|----------------------------|
| UTAH POWER & LIGHT, | : | CONTEST PROCEEDING |
| substituted for | : | |
| EMERY MINING CORPORATION, | : | Docket No. WEST 86-141-R |
| Contestant | : | Order No. 2835048; 4/23/86 |
| | : | |
| v. | : | Cottonwood Mine |
| | : | |
| SECRETARY OF LABOR, | : | |
| MINE SAFETY AND HEALTH | : | |
| ADMINISTRATION (MSHA), | : | |
| Respondent | : | |
| and | : | |
| UNITED MINE WORKERS OF AMERICA, | : | |
| Intervenor | : | |

DECISION

Appearances: John Macleod, Esq., Crowell & Moring, Washington, D.C.,
for Contestant;
Edward H. Fitch, Esq., Office of the Solicitor,
U.S. Department of Labor, Arlington, Virginia,
for Respondent;
Mary Lu Jordan, Esq., United Mine Workers of
America, Washington, D.C.,
Intervenor.

Before: Judge Morris

This case, heard under the provisions of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq., (the Act) arose from an inspection of contestant's Cottonwood Mine on April 23, 1986. On that date a federal mine inspector issued Order No. 2835048 under § 104 of the Act.

A hearing on the merits commenced in Denver, Colorado on May 14, 1986.

Stipulation

The parties agreed that the ruling in WEST 86-126-R would be controlling in this case (Tr. 18-20).